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10/567,880

02/09/2006

Eric K. Hamilton

BRA01 P-125A

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09/14/2010

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EXAMINER

WILLIAMS, MARK A

ART UNIT

PAPER NUMBER

3673

MAIL DATE

DELIVERY MODE

09/14/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--------------------------------------|--|--|
| Office Action Summary | Application No. 10/567,880 | Applicant(s) HAMILTON ET AL. | |
| | Examiner MARK A. WILLIAMS | Art Unit 3673 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 June 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11, 21-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 and 21-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Jorgensen, US Patent 4,507,821. A locking device comprising first and second end pieces (2, 1) formed together via a forming process, said second end piece being joined to said first end piece via at least one frangible element 4; a substantially rigid locking member 5, wherein said first end piece being-is attached to one end of said locking member and a locking portion 6 of said locking member extends from said first end piece along a first axis of said first end piece, and wherein said second end piece is configured to receive said locking portion, of said locking member along a second axis of said second end piece; wherein said first and second axes are not aligned with one another when said first and second end pieces are joined via said at least one frangible element (not that each axis for each end piece can be arbitrarily selected such that that are not aligned), said frangible

element limiting relative movement of said first and second end pieces to preclude alignment of said first and second axes when said first and second pieces are joined via said at least one frangible element; and said second end piece being separable from said first end piece via breaking said at least one frangible element, when said at least one frangible element is broken and said first and second end pieces are separated, said first and second axes being alignable so that said second end piece is able to receive the other end of said locking portion of said locking member to lock said locking device to an object. The first and second end pieces are capable of being molded together, said at least one frangible element comprising interconnected portions of said first and second end pieces. The first end piece is molded around said end of said locking member (product-by-process—see MPEP 2113). The second end piece is capable of being molded around a locking element that is configured to receive and secure to the locking portion of said locking member (product-by-process—see MPEP 2113). The surface comprises a substantially planar surface that may be used for printing or applying indicia thereon.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 7, 9-11, 33-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jorgensen, US Patent 4,507,821. Note the above 102 rejection.

Regarding these claims, Jorgensen provides the claimed invention except explicit teaching of (1) a roughened surface; (2) an identification element; (3) the identification element being a radio frequency identification chip; (4) first and second tabs to receive a secondary seal for tamper identification, as claimed; and (5) a substantially rigid metallic locking member, as claimed.

Regarding (1)-(4), although the particular structures are not explicitly provided in Jorgensen, the examiner serve Official Notice that such structures are generally old and well known, as a means for providing identification of end pieces as well as means for tamper identification. It would have been obvious to modify the device in these ways for providing tamper evidence and means for identification of the parts. In addition, it would have been an obvious matter of design choice to make the different portions of the device of whatever form or

shape was desired or expedient. A change in form or shape is generally recognized as being within the level of ordinary skill in the art, absent any showing of unexpected results. *In re Dailey et al.*, 149 USPQ 47. Such modifications are not critical to the design and would have produced no unexpected results.

Regarding (5), it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the device in this way, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416. See also *Ballas Liquidating Co. v. Allied industries of Kansas, Inc.* (DC Kans) 205 USPQ 331. Such a modification is not critical to the design and would have produced no unexpected results, and solves no stated problem.

5. Claims 8 and 21-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jorgensen in view of US Patent Application Publication 2001/0004055A1 to Kubota et al. Note the above 102 and 103 rejections.

Jorgensen does not teach the general concept of multiple locking devices formed together with frangible elements joined between them as claimed. However, the concept of configuring locking elements in his way is old and well

known. Kubota provides an example teaching the joining of various identical locking elements together via frangible connections. Such an arrangement allows for the forming and packaging of multiple locking elements simultaneously. It would have been obvious at the time the invention was made for one skilled in the art to have included such an arrangement in the device of Jorgensen, for the purpose of allowing for the forming and packaging of multiple locking devices simultaneously.

Response to Arguments

6. Applicant's arguments with respect to the claims of record have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is

filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARK A. WILLIAMS whose telephone number is (571)272-7064. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on (571) 272-6856. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Mark A. Williams/
Examiner, Art Unit 3673

/Carlos Lugo/
Primary Examiner, Art Unit 3673